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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,381	11/10/2003	Hsing Chen	2011146	4329

7590 03/22/2006

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Saratoga, CA 95070-3018

EXAMINER

JACKSON JR, JEROME

ART UNIT	PAPER NUMBER
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2815

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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In re Application of:	:	
Hsing Chen	:	
Serial No.: 10/705,381	:	DECISION ON PETITION TO
Filed: November 10, 2003	:	WITHDRAW THE HOLDING
Attorney Docket No.: 2011146	:	OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181 filed on May 16, 2005. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on September 27, 2004. A Notice of Abandonment was mailed on May 2, 2005.

Petitioner asserts that a response to the Office action of September 27, 2004 was mailed to the PTO on December 21, 2004. In support of this assertion, petitioner submitted a copy of the response which bears a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated December 21, 2004.

The file record does not include the originally submitted response.

REGULATION

37 C.F.R. § 1.8(b) provides:

“In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence or receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement."

Petitioner attested to his personal knowledge of the mailing of the response on September 21, 2004 and supplied a copy of the response. Accordingly, the petition is deemed to satisfy the conditions set forth in 37 C.F.R. § 1.8(b).


Although the copy of response incorrectly lists the Serial No. as 10/422,200 instead of 10/705,381 on most every paper including the transmittal sheet, the other information such as filing date, inventor, title and attorney docket number are correct. The combination of information should have been sufficient to match the response to the application file. Furthermore, the paper entitled "RESPONSE TO OFFICE ACTION" although having Appl. No. 10/422,200 at the top of the paper, does clearly list the Serial No. 10/705,381 on it.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed May 2, 2005 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on May 16, 2005 is accepted since the response originally submitted was apparently lost. The Technical Support Staff will enter the copy of the response filed with the petition on May 16, 2005 as a timely response and the examiner will prepare an action based upon that response.

It is noted that the present petition, like the response, incorrectly lists the Serial No. of the present application as 10/422,200 instead of 10/705,381. Applicant is requested to correct their records so that any future paper submitted for the present application correctly lists the Serial No. as 10/705,381.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.


Robert J. Oberleitner, Director
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